

## **Columbia Slough Sediment Cleanup: Option for Liability Release through Cash Settlements**

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**Background/Objectives.** The Columbia Slough is an approximately 31-mile urbanized waterway in Portland, Oregon. Sediment in the Columbia Slough is contaminated with a variety of hazardous substances such as PCBs, pesticides and metals. Industrial, commercial and agricultural facilities located along the Columbia Slough for the past 100 years likely contributed to sediment contamination through wastewater discharge, stormwater runoff, bank erosion and groundwater discharge. In 2005, Oregon Department of Environmental Quality (DEQ) issued a Record of Decision providing the framework for cleanup. The primary components are upland source control, sediment hot spot remediation and monitored natural recovery. DEQ is actively working with current and former owners and operators of these facilities to investigate and, if necessary, clean up sources of contamination to the Columbia Slough. Parties are often hesitant to investigate the nature and extent of hazardous substances in Columbia Slough sediment. This is due in part to a concern that sediment contamination from multiple facilities have comingled and released through shared stormwater conveyance systems. Sorting out these technical and legal issues is often expensive and time consuming.

**Approach/Activities.** In 2008, DEQ developed an alternative option for parties to settle their potential liability for Columbia Slough sediment contamination in areas where comingling is a concern. The settlement framework includes addressing upland source contamination and calculates a “cash-out” payment based on estimated costs that likely would be incurred in a sediment investigation and cleanup. Funds are pooled into a special account dedicated to sediment investigation and cleanup of priority areas within the Columbia Slough. DEQ also enters into Prospective Purchaser Agreements (PPA) with qualifying parties who are interested in acquiring contaminated properties along the Columbia Slough. A key element of the PPA is that the prospective purchaser performs due diligence. Completing due diligence on properties that may have released contaminants to the Columbia Slough can be expensive and time-consuming. Recognizing these challenges, DEQ has negotiated agreements where the prospective purchaser contributes a predetermined dollar amount to DEQ’s Columbia Slough fund and performs upland source control. As of June 2018, DEQ has completed 18 settlements and collected approximately \$3.1 million under the settlement and PPA approach. To date, DEQ has spent a total of \$1.5 million of the settlement funds have been spent to complete several phases of investigation, implement two cleanup actions (two more are in the evaluation phase), and contribute to three natural resource projects.

**Results/Lessons Learned.** Since 2008, DEQ has used settlement funds to perform three sediment investigations, complete two sediment cleanups and evaluate two additional sediment areas for cleanup. The settlement approach provides DEQ with more control in scope and timeline for Columbia Slough sediment cleanup. Parties are supportive of the settlement approach because it provides financial certainty and parties can focus on source control at their facilities while relinquishing complex comingled sediment work to the state.